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February 27, 2015

By ECF and Hand Delivery

Honorable Naomi Reice Buchwald
United States District Judge
Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: *In re LIBOR-Based Fin. Instruments Antitrust Litig.*, MDL No. 2262,
11 Civ. 2613, Master File No. 1:11-md-2262-NRB

Dear Judge Buchwald:

I write on behalf of Defendants in *Amabile v. Bank of America Corp.*, No. 13-cv-1700 (“*Amabile*”), in response to the Court’s question directed to Defendants at the February 5, 2015 oral argument concerning the trader-based Commodity Exchange Act (“CEA”) claims of the *Amabile* plaintiffs. As set forth at page 84, lines 2-6 of the argument transcript, the Court inquired whether the Defendants named in such claims concede that plaintiffs *Amabile*, Furlong, Haggerty, Pankau, Restani, Vecchione and 303 Capital each have stated at least some timely CEA claims. Defendants concede that each of these individual plaintiffs except Mr. Pankau has alleged at least one trader-based CEA claim against at least one Defendant that satisfies the pleading requirements set forth in the Court’s prior rulings and that falls within a period which this Court has previously ruled to be timely. Defendants do not, however, concede that each of these individual plaintiffs has adequately alleged a timely claim against each Defendant. Specifically, with respect to Period 0 trader-based claims, Defendant Barclays contends that Mr. Pankau has failed to allege a timely claim against it, and Defendant Rabobank contends that Messrs. Furlong, Pankau, Restani, and Vecchione have failed to allege a timely claim against it.¹

The Appendix annexed to this response identifies entries from Exhibit A to the *Amabile* plaintiffs’ complaint—which lists dates on which Defendants allegedly engaged in trader conduct that purportedly injured plaintiffs—that fall within Period 0 (*i.e.*, January 1, 2005 to August 6, 2007) and that Defendants concede satisfy the pleading requirements set forth in the Court’s prior rulings. The Appendix does not include entries from Exhibit A that Defendants contend are deficient because: (i) there is no allegation that a plaintiff had a trading position adverse to the alleged manipulation, (ii) there is no allegation that the relevant conduct involved

¹ Although Defendants understood the Court’s question to be addressed only to trader-based claims in Period 0, for the avoidance of doubt: Defendant Lloyds (against which no Period 0 claims were asserted) contends that Messrs. Furlong and Pankau and 303 Capital have failed to allege a timely trader-based claim against it (as those plaintiffs do not join in the only Period 3 claim against Lloyds) and Defendant RBS contends that no plaintiff has alleged a trader-based claim against it that is both timely and satisfies the pleading requirements set forth in the Court’s prior rulings.

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3-month U.S. Dollar LIBOR (the only tenor relevant to plaintiffs' futures trading), and/or (iii) the alleged conduct mathematically could not have impacted the published LIBOR.² Nor does the Appendix include entries from Exhibit A subsequent to Period 0, including the claims that Defendants contend are time-barred under the Court's previous rulings because they date from Periods 1 or 2.

The annexed Appendix includes entries from Exhibit A in which the listed plaintiffs are identified as both "buyers" and "sellers" on the same day. Without additional allegations that clarify the net position of each plaintiff identified with respect to these entries, Defendants cannot and do not concede that *each* plaintiff listed in these entries has adequately alleged a claim consistent with the Court's prior rulings. *See, e.g., LIBOR II*, 962 F. Supp. 2d 606, 622 (S.D.N.Y. 2013) ("we can expect plaintiffs to allege how their positions were negatively affected by trader-based manipulation").

Respectfully submitted,

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cc: All counsel (via ECF)

² See Opening Prior Rulings Brief 7-9 (MDL ECF No. 746); Reply Prior Rulings Brief 3-5 (MDL ECF No. 921).

Appendix¹

Date	Bank	Direction of Alleged Request (Tenor)	Quartile Position	Allegedly Harmed Plaintiff(s)	Plaintiff(s)' Alleged Position
2/1/2006	Barclays	Downward	Interquartile	Amabile, Louie Restani, Eduardo Furlong, Robert	Buyer
2/2/2006	Barclays	Downward	Interquartile	Amabile, Louie Restani, Eduardo	Buyer
2/3/2006	Barclays	Downward (3 mo.)	Interquartile	Restani, Eduardo	Seller/Buyer ²
2/15/2006	Barclays	Downward (3 mo.)	Lower	Amabile, Louie Furlong, Robert	Seller/Buyer ²
2/22/2006	Barclays	Upward	Upper	Furlong, Robert Restani, Eduardo Vecchione, David	Seller
3/13/2006	Barclays	Downward	Lower	Vecchione, David	Buyer
3/16/2006	Barclays	Downward (3 mo.)	Lower	Amabile, Louie Restani, Eduardo	Seller/Buyer ²
4/7/2006	Barclays	Downward (3 mo.)	Lower	Amabile, Louie Restani, Eduardo Vecchione, David	Buyer
6/1/2006	Barclays	Upward (3 mo.)	Interquartile	Haggerty, Brian Restani, Eduardo	Seller
6/30/2006	Rabobank	Upward (3 mo.)	Interquartile	Pankau, Brett Furlong, Robert 303 Capital	Buyer/Seller ²
8/15/2006	Rabobank	Downward (3 mo.)	Interquartile	Amabile, Louie Haggerty, Brian	Buyer

¹ The allegations set forth in this appendix are taken from Exhibit A to the *Amabile* plaintiffs' complaint (*Amabile* ECF No. 12-7).

² With respect to this entry, Exhibit A to the *Amabile* plaintiffs' complaint appears to identify the listed plaintiffs as both "buyers" and "sellers." It is unclear from Exhibit A which of the listed plaintiffs was a net buyer and which a net seller (as it cannot be that each was both a net buyer and net seller on the same day). Without additional allegations regarding the net position of each plaintiff identified with respect to this entry, at this time Defendants cannot and do not concede that *each* plaintiff listed in this entry has adequately alleged a claim consistent with the Court's prior rulings. *See, e.g., LIBOR II*, 962 F. Supp. 2d 606, 622 (S.D.N.Y. 2013) ("we can expect plaintiffs to allege how their positions were negatively affected by trader-based manipulation").

Date	Bank	Direction of Alleged Request (Tenor)	Quartile Position	Allegedly Harmed Plaintiff(s)	Plaintiff(s)' Alleged Position
8/17/2006	Rabobank	Downward (3 mo.)	Interquartile	Amabile, Louie Haggerty, Brian 303 Capital	Buyer
8/18/2006	Rabobank	Downward (3 mo.)	Interquartile	Amabile, Louie Haggerty, Brian	Buyer
9/13/2006	Barclays	Downward (3 mo.)	Interquartile	Furlong, Robert Haggerty, Brian	Buyer
9/14/2006	Barclays	Downward (3 mo.)	Interquartile	Haggerty, Brian Restani, Eduardo	Buyer
9/15/2006	Barclays	Downward (3 mo.)	Interquartile	Amabile, Louie Haggerty, Brian Restani, Eduardo	Buyer
10/26/2006	Barclays	Downward (3 mo.)	Lower	303 Capital	Buyer
11/29/2006	Rabobank	Upward (3 mo.)	Interquartile	Restani, Eduardo Haggerty, Brian 303 Capital	Buyer/Seller ²
12/18/2006	Barclays	Downward	Interquartile	Restani, Eduardo	Buyer
12/20/2006	Barclays	Downward	Interquartile	Vecchione, David	Buyer
12/22/2006	Barclays	Downward	Interquartile	303 Capital Amabile, Louie Restani, Eduardo	Buyer
12/27/2006	Barclays	Downward	Interquartile	Amabile, Louie	Buyer
2/28/2007	Barclays	Upward (3 mo.)	Upper	303 Capital	Seller
3/5/2007	Barclays	Upward (3 mo.)	Upper	Haggerty, Brian	Seller
3/29/2007	Barclays	Downward (3 mo.)	Interquartile	Amabile, Louie Haggerty, Brian Restani, Eduardo Vecchione, David	Buyer
5/24/2007	Barclays	Downward (3 mo.)	Interquartile	Restani, Eduardo Vecchione, David	Buyer
8/6/2007	Barclays	Upward	Interquartile	Haggerty, Brian	Seller